

**ORDER ON I.A. NO.2 FILED BY PLAINTIFFS UNDER ORDER
39 RULE 1 & 2 R/W SECTION 151 OF CPC**

Heard advocate for plaintiffs on IA No.2 filed by plaintiffs under Order 39 Rule 1 & 2 r/w Section 151 of CPC. Perused plaint, affidavit filed along with IA.No.2 and records of the file.

2. This suit is filed by plaintiffs against defendants for relief of Partition and declaring that they are entitled for ½ share in the suit schedule properties and to declare that the registered Gift Deed dated 03.01.2015, executed by defendant No.1 in favour of Defendant No.3 and Sale Deed dated 08.12.2021, executed by defendant No.3 in favour of Defendant No.4 with respect to item No.II of the suit schedule property is not binding on the plaintiffs.

3. The plaintiffs in the affidavit filed along with IA No.2 stated that they are entitled to their legitimate ½ share in the suit schedule property. The suit schedule properties are the ancestral / joint properties of their grandfather and they were in continuous possession and enjoyment of the same as joint family members. After the death of Sri. Muniramaiah, his children namely Sri. M. Krishnappa, Sri. Pillappa, Sri. M. Ramaiah, Sri. M. Gopal Krishna,

Sri. Puttaraju (Defendant No.3), Sri. Chandrappa and Sri. Suresh (Defendant No.1) have entered into Partition Deed dated 29.03.2001 with respect to ancestral or joint family properties. The plaintiffs stated that under the said partition, portion of land in Sy No. 32, presently bearing Re-Sy No. 32/4, Item No.II of the suit schedule property was allotted to the share of 1st defendant. Accordingly, the revenue records were mutated in the name of 1st Defendant. It is submitted that the Plaintiffs and Defendant No.2 are the children of 1st defendant and they are the coparceners of the Hindu Undivided Joint Family and by birth they have right, title and interest over the Item No.1 and Item No.II of the suit schedule properties and they are in possession and enjoyment of the same as joint family members. The defendant No.1 entered into registered Joint Development Agreement dated 04.04.2013 with respect to Item No.1 of the suit schedule properties with Defendant No.5 to develop the same into residential apartment building by receiving huge amount as non-refundable deposit and thereafter, the conduct and behaviour of the 1st defendant towards the plaintiffs is completely changed, started to abuse and torture the plaintiffs physically and mentally and he became alcoholic. The defendant No.1 being the father of plaintiffs had neglected the plaintiffs for the reason best known to him and failed to provide education, food and other basic amenities and the defendant No.1 spent his life lavishly on his personal needs. The plaintiffs stated that during the month of 1st week of August 2023, the Item No.2 of suit schedule properties along with their mother, they were shocked to hear that the 1st defendant had gifted the item No. II of the suit schedule property in favour of the 3rd defendant and 3rd defendant in turn sold the item No.II of the suit schedule property in

favour of 4th defendant under registered Sale Deed dated 08.12.2021. The plaintiffs stated that the aforesaid transactions have taken place without the consent of them. The suit schedule property are joint family property and the plaintiffs and defendant No.2. The plaintiffs stated that the defendant No.1 is making effort to alienate the item No.I of the suit schedule property through the defendant No.5 by taking advantage of joint development agreement in favour of 3rd parties. The defendant No.1 in collusion with the defendant No.3 has created the Gift Deed in favour of defendant No.3 depriving the right, title and interest of the plaintiffs and the defendant No.3 in turn sold the item No.II of the suit schedule property to defendant No.4 and now, the defendant No.4 is trying to sell the item No.II of the suit schedule property to the 3rd parties depriving the right, title and interest of the plaintiffs

4. The plaintiffs in support of IA No. 2 have produced Partition Deed, Property Extract and Joint Development Agreement. If the defendant No.1, 3, 4 & 5 alienates the suit schedule properties the purpose of filing this suit becomes meaningless. At this stage, the plaintiffs have made out prima facie case against defendants. Hence, it is necessary to issue exparte temporary injunction against defendants, as prayed by plaintiffs in IA No.2 till next date of hearing. In view of the above, I proceed to pass the following:-

ORDER

Issue Exparte Temporary Injunction against Defendants as prayed in IA.No. 2 till the next date of hearing.

After compliance of order 39
Rules 3 of CPC, issue Exparte
Temporary Injunction, notice and
Suit Summons to defendants.

Call on 28.03.2024.

(Laxman Ramu Kurane)
XV Addl.City Civil & Sessions
Judge, Bengaluru.